



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,895	12/19/2001	Jani Pirkola	413-010762-US(PAR)	3213
2512 PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824	7590 10/28/2008		<div>EXAMINER</div> <div>DESIR, PIERRE LOUIS</div>	
			<div>ART UNIT</div> <div>2617</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>10/28/2008</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/027,895

**Applicant(s)**

PIRKOLA ET AL.

**Examiner**

PIERRE-LOUIS DESIR

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/08/2008 has been entered.

***Response to Arguments***

2. Applicant's arguments filed on 10/08/2008 have been fully considered but they are not persuasive.

Applicants argue that Tuomela does not come into play until after a communication has been established between the calling party and the answering machine of Tuomela.

Examiner respectfully disagrees.

Tuomela discloses a method wherein a WAP server stores information of each user's current disposition or context. If a call is not answered, the caller's phone then automatically looks to the WAP server to obtain the context information for the called party. The context information for the called party may then be transferred to the caller's phone as a text message, or as an animation (paragraph 19), wherein the user may determine a next course of action, e.g., call later, leave a text message, or put the call through (paragraph 22).

As can be seen above, an attempt to establish a communication between a first user and a second user is made. The establishing or setting up of the call or electrical communication connection does not take place until the call is actually put through, which takes place at the ringing of the called party's phone.

Examiner want to be clear in the way the claim's language is being interpreted. Therefore, the following explanation is being given to facilitate that process.

The claim's language discloses, "before setting up an electrical connection between a calling party of said group of parties and a receiving party of said group of parties, there is a setting up of an electrical connection between the calling party and the server in response to an attempted communication." With Tuomela disclosure, the connection or call is never set or established since the called party's phone never rings. Before the call is put through, i.e., established or set up, an electrical connection between the calling party and the WAP server is established since there is direct communication between the two. From options given to the calling party by the WAP server, a decision is made to direct the WAP server to put the call through (set up or establish the call).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

. Claims 1-3, 7-12, 14-22 rejected under 35 U.S.C. 102(e) as being anticipated by Tuomela (previously disclosed).

Regarding claim 1, Tuomela discloses a method comprising: establishing among a group of parties a context-based file that records activity status of each member of the group, the file arrangement comprising an activity status server (WAP server 7, Figure 2) and a plurality of

activity logs connected to the server, the activity logs being in communication with the phones of respective ones of the parties (see paragraph 0019, and claim 5 of Tuomela); before setting up an electrical connection between a calling party of said group of parties and a receiving party of said group of parties, there is a setting up of an electrical communications connection between the calling party and the server in response to an attempted communication by the calling party to the receiving party (i.e., a WAP server stores information of each user's current disposition or context. If a call is not answered, the caller's phone then automatically looks to the WAP server to obtain the context information for the called party. The context information for the called party may then be transferred to the caller's phone as a text message, or as an animation (paragraph 19), wherein the user may determine a next course of action, e.g., call later, leave a text message, or put the call through (paragraph 22). With Tuomela disclosure, the connection or call is never set or established since the called party's phone never rings. Before the call is put through, i.e., established or set up, an electrical connection between the calling party and the WAP server is established since there is direct communication between the two. From options given to the calling party by the WAP server, a decision is made to direct the WAP server to put the call through (set up or establish the call)); wherein, before establishing of a communication via the communications connection between the calling party and the receiving party, an attempt by the calling party to initiate the communication results in a connection of the calling party to an activity log provided by the server enabling the calling party to make a check from the activity log of the receiving party to obtain information concerning the ability of the receiving party to receive a message sent by the calling party (i.e., ("check context information", see Figure 2, element 2; see also page 1, paragraph 0010, and paragraph 16) based on that information, there is a making of a decision about the establishment of the communications connection proper. (for

example: a decision is made between leaving a message for the user, or causing the call to ring the user's phone, see page 1, paragraph 0008, especially the last three lines; and the abstract). The "context information" indicates a receiving party's activity, place or location and/or environment; see pages 1-2, paragraphs 0015-0016 and 0019, and based on that information, there is making of a decision about the establishment of the communications connection proper (i.e., the user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or instructing the system to put the call through) (see paragraphs 24-33). Also, as stated above, the connection or call is never set or established since the called party's phone never rings. Before the call is put through, i.e., established or set up, an electrical connection between the calling party and the WAP server is established since there is direct communication between the two. From options given to the calling party by the WAP server, a decision is made to direct the WAP server to put the call through (set up or establish the call).

Regarding claim 2, Tuomela discloses everything claimed as applied above (see claim 1). In addition, Tuomela discloses that the check for the calling party concerning the ability of the receiving party to receive the message (call) of the calling party includes steps of: dialing the receiving party's number, (Figure 2, element 1) fetching the activity status data of the receiving

party (context information) from an activity log (at WAP context server 7), (Figure 2, element 2; page 1, paragraphs 0009-0010) presenting possible options of action (page 2, paragraphs 0024-0031) and selecting the best of them ("preferred selection"), (page 2, paragraphs 0022 and 0033) examining whether the option of action is possible, and (The list presented to the calling party, shown in paragraphs 0026-0031, are "possible" options. It is the calling party who "examines" these options.) a communications connection proper is established if the option of action is found possible. (If the calling party chooses, for example, "put the call through now", paragraph 0031, then the proper communications connection is established.)

Regarding claim 3, Tuomela discloses everything claimed as applied above (see claim 2). In addition, Tuomela et al. discloses that the data (context information) representing the activity status of the receiving user are fetched from an activity status server (WAP server 7; Figure 2). (See paragraphs 0009 and 0019.)

Regarding claim 7, Tuomela discloses everything claimed as applied above (see claim 1). In addition, Tuomela et al. discloses that the, communications connection proper is a telephone connection ("phone call" - Figure 2, element 1; "incoming call" - abstract, line 4).

Regarding claim 8, Tuomela discloses everything claimed as applied above (see claim 1). In addition, Tuomela discloses that the communications connection proper is a text message ("SMS message", "e-mail" - paragraph 0036, lines 4-5).

Regarding claim 9, Tuomela discloses a communications (Figure 2) comprising a terminal of one calling party of the plurality of calling parties (left-side 10, Figure 2), a terminal of the receiving party (right-side 10, Figure 2), an electrical communications connection between the two parties (call), and a plurality of user-specific activity logs ("context information") (See paragraphs 0009-0010, 0015-0016, 0019, and claim 1 of Tuomela et al.); a context-based file

arrangement comprising an activity status server (see paragraphs 24-33); and wherein said plurality of activity logs is connected to the server, the activity logs being in communication with the phones of respective ones of the calling parties and the receiving party to enable a calling party to communicate with activity status server (i.e., "check context information", see Figure 2, element 2; see also page 1, paragraph 0010, and paragraph 16) based on that information, there is a making of a decision about the establishment of the communications connection proper. (for example: a decision is made between leaving a message for the user, or causing the call to ring the user's phone, see page 1, paragraph 0008, especially the last three lines; and the abstract). The "context information" indicates a receiving party's activity, place or location and/or environment; see pages 1-2, paragraphs 0015-0016 and 0019); and wherein before establishment of a communication via a communications connection between the calling party and the receiving party, an attempt by the calling party to initiate the communication results in a connection of the calling party to an activity log provided by the server prior to an establishment of a communications connection with the receiving party, the connection to the activity log enabling the calling party to check from the activity log of the receiving party the ability of the receiving party to receive a message sent by the calling party (i.e., the user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the



WAP page to enter a preferred selection, such as leaving a voice message or instructing the system to put the call through) (see paragraphs 24-33). Also, as stated above, the connection or call is never set or established since the called party's phone never rings. Before the call is put through, i.e., established or set up, an electrical connection between the calling party and the WAP server is established since there is direct communication between the two. From options given to the calling party by the WAP server, a decision is made to direct the WAP server to put the call through (set up or establish the call).

Regarding claim 10, Tuomela discloses everything claimed as applied above (see claim 9). In addition, Tuomela discloses wherein the activity status server is separate from phones of respective ones of the calling parties (WAP server 7, Figure 2) (See paragraph 0019, and claim 5 of Tuomela et al.).

Regarding claim 11, Tuomela discloses everything claimed as applied above (see claim 9). In addition, Tuomela et al. discloses that the activity logs are files in the activity status server (Since it is stored in a storage unit it is a "file" as claimed; see paragraph 0009. The WAP- based message is transferred from WAP server 7 to caller's phone equipment; see paragraphs 0013 and 0008. See also, e.g., claim 10 of Tuomela et al.).

Regarding claim 12, Tuomela et al. discloses everything claimed as applied above (see claim 9). In addition, Tuomela et al. discloses that the activity log is a file in the terminal of the user (context information is stored in the user's phone. See paragraph 0009, and claim 4 of Tuomela et al. Since it is stored in a storage unit it is a "file" as claimed).

Regarding claim 14, Tuomela et al. discloses a cellular network (Figure 3) comprising terminals (MS 10), base stations (BTS 5), base station controllers (BSC 4) and switching centers (MSC 3), which communicates with each other; an activity status server (WAP SERVER 7) for

storing a user-specific activity log. (See paragraphs 0034 and 0019). The cellular network serving as a communications connection set-up and checking arrangement for a plurality of calling parties and a receiving party (Figure 2), the communications connection set-up and checking arrangement comprising a terminal of one calling party of the plurality of calling parties (left-side 10, Figure 2), a terminal of the receiving party (right-side 10, Figure 2) and an electrical communications connection between the two parties (call), which arrangement further comprises activity logs ("context information") (See paragraphs 0009-0010, 0015-0016, 0019, and claim 1 of Tuomela et al.); wherein the communications connection includes a context-based file arrangement comprising an activity status server (see fig. 2); and said plurality of activity logs is in communication with the server, and the activity logs are in communication with the phones of respective ones of the calling parties and the receiving party to enable a calling party to communicate with the activity status server (for example: a user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or instructing the system to put the call through) (see paragraphs 9, 19, and 24-33); and wherein before establishment of a communication via a communications connection between the calling party and the receiving party, an attempt by the calling party to initiate the communication results in a connection of the

calling party to an activity log provided by the server prior to an establishment of a communications connection with the receiving party, the connection to the activity log enabling the calling party to check from the activity log of the receiving party the ability of the receiving party to receive a message sent by the calling party (i.e., the user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or instructing the system to put the call through) (see paragraphs 24-33). Also, as stated above, the connection or call is never set or established since the called party's phone never rings. Before the call is put through, i.e., established or set up, an electrical connection between the calling party and the WAP server is established since there is direct communication between the two. From options given to the calling party by the WAP server, a decision is made to direct the WAP server to put the call through (set up or establish the call).

Regarding claim 15, Tuomela et al. discloses everything claimed as applied above (see claim 14). In addition, Tuomela et al. discloses that the activity status server (7) is connected with a switching center (3). (See Figure 3).

Regarding claim 16, Tuomela et al. discloses a cellular network terminal (MS 10) comprising keypad for entering data (keypad 16) in the terminal, data display (display 14), data

transmitter (transmitter 20), data receiver (receiver 22), memory unit (memory 13) and a control unit (MCU 12); wherein the terminal further comprises an activity status monitor (CSU 26). (See Figure 3, paragraphs 0037-0040, and 0015), and the terminal is operative upon connection with a cellular network, the cellular network serving a plurality of calling parties and a receiving party (Figure 2), and wherein the terminal serves one calling party of the plurality of calling parties (left-side 10, Figure 2); and wherein the network includes an activity status server (WAP server 7, Figure 2) of a context-based file arrangement, and said activity status monitor is in communication with the activity status server to enable the calling party to check from the activity status server the ability of the receiving party to receive a message sent by the calling party (for example: a user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message) (see paragraphs 9, 19, and 24-33); and wherein before establishment of a communication via a communications connection between the calling party and the receiving party, an attempt by the calling party to initiate the communication results in a connection of the calling party to an activity log provided by the server prior to an establishment of a communications connection with the receiving party, the connection to the activity log enabling the calling party to check from the activity log of the receiving party the

ability of the receiving party to receive a message sent by the calling party (i.e., the user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or instructing the system to put the call through) (see paragraphs 24-33). Also, as stated above, the connection or call is never set or established since the called party's phone never rings. Before the call is put through, i.e., established or set up, an electrical connection between the calling party and the WAP server is established since there is direct communication between the two. From options given to the calling party by the WAP server, a decision is made to direct the WAP server to put the call through (set up or establish the call).

Regarding claim 17, Tuomela et al. discloses everything claimed as applied above (see claim 16). In addition, Tuomela et al. discloses that part of the memory (13) of the terminal can be allocated for creating and maintaining a user-specific activity log ("current context"). (See paragraph 0038).

Regarding claim 18, Tuomela et al. discloses everything claimed as applied above (see claim 16). In addition, Tuomela et al. discloses that part of a SIM card ("removable SIM"), connected with the terminal, can be allocated for creating and maintaining a user-specific activity log ("subscriber-related information"). (See paragraph 0038).

Regarding claim 19, Tuomela et al. discloses everything claimed as applied above (see claim 16). In addition, Tuomela et al. further discloses means for displaying (14) activity status data for the receiving party fetched from an activity status server (WAP server 7). (See paragraphs 0024-0025 and 0019).

Regarding claim 20, Tuomela et al. discloses everything claimed as applied above (see claim 19). In addition, the mode or means employed by the user to activate or enable context-sensitive answering read as the claimed "means for making a decision about whether a communications connection proper will be established" because when enabled it "makes a decision about" whether to establish the proper communications connection. (See paragraphs 0016-0017).

Regarding claim 21, Tuomela et al. discloses everything claimed as applied above (see claim 1). The process of creating a context-based data is inherently performed by software means" or, simply, software (e.g. see "operating program", paragraph 0038), wherein a computer readable medium having a program arranged so as to realize the steps of the method according to claim I (explained above).

Regarding claim 22, Tuomela et al. discloses everything claimed as applied above (see claim 21). In addition, the application program (operating program) is stored on a data transfer medium, in the memory (13) of a terminal, on a SIM card of a terminal, or in a cellular network device. (See paragraph 0038).

4. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuomela in view of Silverman (previously disclosed).

Regarding claim 4, Tuomela et al. discloses a method for establishing and making a check for a communications connection, the method comprising: establishing among a group of parties a context-based file that records activity status of each member of the group, the file arrangement comprising an activity status server (WAP server 7, Figure 2) and a plurality of activity logs connected to the server, the activity logs being in communication with the phones of respective ones of the parties (see paragraph 0019, and claim 5 of Tuomela); before setting up an electrical connection between a calling party of said group of parties and a receiving party of said group of parties, there is a setting up of an electrical communications connection between the calling party and the server in response to an attempted communication by the calling party to the receiving party (i.e., a WAP server stores information of each user's current disposition or context. If a call is not answered, the caller's phone then automatically looks to the WAP server to obtain the context information for the called party. The context information for the called party may then be transferred to the caller's phone as a text message, or as an animation (paragraph 19), wherein the user may determine a next course of action, e.g., call later, leave a text message, or put the call through (paragraph 22). With Tuomela disclosure, the connection or call is never set or established since the called party's phone never rings. Before the call is put through, i.e., established or set up, an electrical connection between the calling party and the WAP server is established since there is direct communication between the two. From options given to the calling party by the WAP server, a decision is made to direct the WAP server to put the call through (set up or establish the call)); wherein, before establishing of a communication via the communications connection between the calling party and the receiving party, an attempt by the calling party to initiate the communication results in a connection of the calling party to an activity log provided by the server enabling the calling party to make a check from the

activity log of the receiving party to obtain information concerning the ability of the receiving party to receive a message sent by the calling party (i.e., ("check context information", see Figure 2, element 2; see also page 1, paragraph 0010, and paragraph 16) based on that information, there is a making of a decision about the establishment of the communications connection proper. (for example: a decision is made between leaving a message for the user, or causing the call to ring the user's phone, see page 1, paragraph 0008, especially the last three lines; and the abstract). The "context information" indicates a receiving party's activity, place or location and/or environment; see pages 1-2, paragraphs 0015-0016 and 0019, and based on that information, there is making of a decision about the establishment of the communications connection proper (i.e., the user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or instructing the system to put the call through) (see paragraphs 24-33). Also, as stated above, the connection or call is never set or established since the called party's phone never rings. Before the call is put through, i.e., established or set up, an electrical connection between the calling party and the WAP server is established since there is direct communication between the two. From options given to the calling party by the WAP server, a decision is made to direct the WAP server to put the call through (set up or establish the call).



In addition, Tuomela et al. discloses that the check for the calling party concerning the ability of the receiving party to receive the message (call) of the calling party includes steps of: dialing the receiving party's number, (Figure 2, element 1) fetching the activity status data of the receiving party (context information) from an activity log (at WAP context server 7), (Figure 2, element 2; page 1, paragraphs 0009-0010) presenting possible options of action based on the activity status data of the log (page 2, paragraphs 0024-0033) and selecting the best of the possible options ("preferred selection"), (page 2, paragraphs 0022-0033) examining whether the option of action is possible, and (The list presented to the calling party, shown in paragraphs 0026-0031, are "possible" options. It is the calling party who "examines" these options.) The communications connection proper is established if the option of action is found possible. (If the calling party chooses, for example, "put the call through now", paragraph 0031, then the proper communications connection is established.)

However, Tuomela et al. fails to specifically disclose that if the option of action decided upon (e.g. call) is impossible to carry out, there is a step of checking whether the option of action can be carried out later.

Silverman discloses method wherein if the option of action decided upon (call) is impossible to carry out, it is checked whether the option of action can be carried out later (call-back). If the call is impossible to carry out "it is checked whether" a call-back can be carried out later. See column 3, lines 11-30 of Silverman.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to enable Tuomela et al., if the option of action decided upon is impossible to carry out, so as to check whether the option of action can be carried out later,

because this would enable the users to communicate in spite of present unavailability of the called party.

Regarding claim 5, Tuomela et al. And Silverman disclose everything claimed as applied above (see claim 4). However, they fail to specifically disclose that if the option of action can be carried out later, the data representing the activity status of the receiving party are fetched again after a time delay.

Silverman discloses to perform the call-back within a time delay (timer value); see column 3, lines 30-50. The callback includes making a phone call to the called party (receiving party); column 3, lines 61-62.

Tuomela et al. discloses that upon a phone call (Figure 2, element 1 of Tuomela et al.), the activity status (context information) of the receiving party are fetched (Figure 2, element 2 of Tuomela et al.). Which in combination with Silverman's callback is "fetched again after a time delay".

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to enable Tuomela et al., if the option of action can be carried out later, so that the data representing the activity status of the receiving party are fetched again after a time delay, because this would provide the calling party with updated information about the called party since the time elapsed from the first original call to a second successful call can be significant.

Regarding claim 6, Tuomela et al. and Silverman disclose everything claimed as applied above (see claim 4).

However, Tuomela et al. fails to specifically disclose that if the option of action decided upon cannot be carried out after a time delay, a communications connection proper is not established.

Silverman further discloses that if the option of action decided upon (call-back) cannot be carried out after a time delay (timer value), a communications connection proper is not established. For example, the call-back timer value can be set to 30 minutes. If the timer value expires the call-back is terminated and the communications connection proper is not established. See column 3, lines 35-45 of Silverman.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to enable Tuomela et al., if the option of action decided upon cannot be carried out after a time delay, so that a communications connection proper is not established, because the wait is too long after the time delay (timer) expires.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tuomela.

Regarding claim 13, Tuomela et al. discloses everything claimed as applied above (see claim 9). In addition, Tuomela et al. further discloses a user profile editing function (the user can input or "edit" current context information by means of a keypad 16; paragraph 0008, lines 8-10, paragraph 0015, last three lines, paragraph 0040, lines 3-4, and claim 3 of Tuomela et al., inter alia) and an activity status application function ("operating program", paragraph 0038).

However, Tuomela et al. fails to specifically disclose an activity status decoding function as claimed.

Tuomela et al. teaches that the activity status (current context information) is transferred to the calling party (caller's phone) in the form of a code that identifies one of a set of animations

stored in the caller's phone for selecting an appropriate one to be displayed to the caller (paragraph 0018, lines 14-18). The animation can depict the current activity of the called party (receiving party), for example, in a meeting, on a train, etc. (paragraph 0018, lines 8-10). Thus, Tuomela et al. suggests, "an activity status decoding function" as, claimed because the transferred code is matched with an appropriate animation. One advantage of this is that animations can be language independent (paragraph 0018, lines 12-13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide Tuomela et al. with "an activity status decoding function" because it would enable a language independent feature as suggested by the same Tuomela et al.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PIERRE-LOUIS DESIR whose telephone number is (571)272-7799. The examiner can normally be reached on Monday-Friday 9:00AM- 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571)272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pierre-Louis Desir/  
Examiner, Art Unit 2617

/Dwayne D. Bost/  
Supervisory Patent Examiner,  
Art Unit 2617